

THE UNITED NATIONS & HUMAN RIGHTS

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P R E F A C E

It was only in the Nineteenth Century that the serious efforts were made towards establishing an international organisation to prevent and avoid war. Just after the First World War the League of Nations came into being. The League of Nations tried to dedicate itself to safeguarding the rights of minorities and a number of Minorities Treaties were concluded. The phrase "Human Rights and Fundamental Freedoms" which is of such importance in the Charter of the United Nations found no place in the Covenant of the League of Nations. The United Nations also engaged itself, like its predecessor with all humane activities along with related responsibilities.

In the present Dissertation an attempt has been made to give an account of the activities of United Nations relating to human rights. My main objective is to find out the success as well as the failures of United Nations in the field of human rights.

The present study has been divided into three chapters. The first chapter deals with the United Nations and the Evolution of the concept of Human Rights. It also covers various articles in the United Nations Charter related to human rights. In the second chapter International Bill of Rights is discussed which dealt with the Universal Declaration of Human Rights, International covenants on Human Rights and measures

of implementation. Lastly, third chapter examines critically the conventions and Declarations relating to human rights. The conclusion which I have drawn from the present study is given after the last chapter. A detailed Bibliography of the material on which I have based my study is also added at the end of the Dissertation.

I am extremely grateful to my supervisor, Professor S.A.H.Haqqi for his valuable guidance and keen interest he has taken in my work. It was due to his constant encouragement that I have been able to finish this work. I am also thankful to Professor S.Nasir Ali for his constant help in my work. Lastly I extend my thanks to Dr. Taufiq Ahmad Nizami, Dr. Shan Mohammad, Dr. Asghar Hussain Bilgrami, Mr. Zafar Ali Khan Hatmi, Zareen Farhat, Nuzhat, Mahboob Beg and my fellow research scholars.

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I N T R O D U C T I O N

EVOLUTION OF THE CONCEPT OF ONE WORLD

Attempts to reduce conflict and violence in inter-state relations through organized procedures have engaged the interest of thinkers and statesmen from earliest times. Before the nineteenth century contributions in this sphere were made by Dante, Erasmus, Emerie Cruce, Henry IV, William Penn and Kant. Kant's remarkable essay, which set forth the underlying conditions, rather than a specific scheme of international organization, laid down some of the guiding principles of modern internationalism. Broadly speaking many of the ideas found in both the Covenant and the Charter came from the minds of men of past centuries. After Kant came the Congress of Vienna, the Holy Alliance, the concert of Europe and the international cooperative movements which characterized the nineteenth century culminating¹ in the First Hague Conference of 1899.

Just after the Napoleonic wars the first major attempt was made to establish an organized system of conducting international affairs in order to prevent and avoid war. Before 1815, international organization was a visionary dream than a concern of statesmen. The Congress of Vienna (1814-1815) met to deal with the European political problems which remained after the defeat of Napoleon. Under the provisions of the final act of

1. Mower, Edmund C., International Government (New York, 1931) p. 364. For details see Walters, A History of the League of Nations (London 1952).

the Congress of Vienna, June 9, 1815, and the second treaty of Paris, November 20, 1815, Britain, Prussia, Austria and Russia established the quadruple Alliance. For the first time all the Great powers of Europe had joined to serve their common interests. The Organization created by them functioned through periodical congresses. At the insistence of Tsar Alexander I the structure was crowned by the Holy Alliance agreement of September 26, 1815. *This alliance became a quintuple alliance in 1818 with the addition of France.*

This practice of periodical congresses was dropped largely because of the coolness of Britain towards the system; but the idea was not wholly abandoned. Known as the "Concert of Europe", it continued in the form of intermittent conferences. It regulated international affairs at critical moments from 1822 until the outbreak of World War I.¹ The concert failed in preventing the Russo-Turkish war in 1877 but it managed at the Congress of Berlin in 1878 to keep it from spreading beyond these two major participants.² While the concert may be credited with preventing war in several cases, it by no means prevented all wars and it failed to face the crisis in 1914. The concert had many weaknesses.³ It was not institutionalized. The concert functioned

1. Vandenbeseh, Amry & Hogan, Willard N., The United Nations : Background, Organization, Functions, Activities (New York, 1952), p.64.
2. Goodspeed, Stephen S., The Nature and Function of International Organization (New York, 1967), pp. 25-26.
3. Mongenthau, Hans J., Politics Among Nations (Calcutta 1966), p. 465.

only intermittently and was without regular or continuous administration and conference organs. In spite of the fact that there was the lack of a strong institutionalized government by conferences, the concert of Europe was most successful in preserving general peace during the ninety years of its existence. More than anything else, the concert system laid the groundwork of an international organization which came in the form of the ¹ league council and the Security Council of the U.N. The two Hague Conferences further contributed to the system of international organization. For the first time, virtually all states in the world (26 in 1899 & 44 in 1907) together met on equal terms to consult together on mutual problems of international concern.

Apart from largely political efforts, the nineteenth century also saw the birth of international administrative agencies or public international unions dealing with non-political problems. They arose in response to the growing need for cooperation in economic and social problems. Among the organizations set up were the European Danube Commission; the International Bureau of Telegraphic Administrations; the Universal Postal Union; the International office of Public Health and the International Institute of Agriculture, etc. ² Added to these elements

1. Goodspeed, Stephen S., Op.cit., p.16.

2. Waters, Maurice. The United Nations (New York, 1967), p.8.
Also see Walters.

was the peace movement, which had many supporters in all countries. The various national associations had begun to link up in an international movement which was exerting a deep and widespread influence.¹ The great achievement of the nineteenth century was to bring international organization down from the clouds of ideal scheme-building and demonstrate its feasibility in the actual intercourse of states.

The idea of an over-all international Organization made much progress during World War I. During the war period the idea of peace was closely associated in the minds of constructive thinkers with the creation of an international organization to preserve and promote international cooperation and secure the blessing of an everlasting peace.² Though it was the last of his famous fourteen points for the peace settlement issued in January, 1918. President Wilson nevertheless attached the utmost importance to the establishment of an international organization for the preservation and promotion of peace. It ran as follows:

"A general association of nations must be formed under specific covenants for the purpose of affording mutual guarantees of political independence and territorial integrity to great and small states alike."³

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1. Vandenhoeck & Hogan, op.cit., p. 64.
 2. Mower, Edmund., op.cit., p. 365.
 3. Goodspeed, Stephen S., op.cit., p. 365.

By the end of the First World War, under the leadership of Woodrow Wilson, an attempt was made to organize the vital forces of the world in support of peace, security and human welfare. The covenant of the League of Nations was the product¹ of his great effort.

"A living thing is born", with these words Wilson laid the first draft of the covenant before the Paris Conference² and the world. Despite some major differences there was general agreement between the leading allied statesmen upon a number of principles which were to become the fundamental provisions³ of the covenant.

The world entered the era of international organization with the creation of the League. For the first time after World War I, a permanent international organization came into existence. Thus, the work of many individuals and organizations tracing back through centuries of thought and activity, was embraced in the launching of the first world organization, namely, the League of Nations. It was devoted to the preservation of peace by means of collective action of its members.

B. Necessity and realization of Human Rights:-

During the seventeenth and eighteenth centuries, little significance was attached to the rights of minorities. But in

1. Szapiro, Jerzy, The Newspaperman's United Nations (UNESCO, 1961), p.17.
2. Kay, David A., The United Nations Political System (New York 1967) p.71.
3. Walters, F.P., A History of the League of Nations (London 1952) p.1.

the beginning of the 19th century most of the European constitutions guaranteed and declared that protection will be provided to the rights of minorities. The idea of an international protection of minorities dates from the Congress of Vienna.¹ The Congress of Vienna held in 1815 proclaimed Eight articles which laid down the rights of minorities in the United Netherlands. The Congress of Vienna created this kingdom in 1814 uniting two peoples with distinct and different languages and cultures of their own.² Since that time agreements have been based on the principle that all the subjects of a state are entitled to equal treatment. In 1830, when the kingdom of Greece was created, it undertook to grant equal political rights to all her subjects.³ The treaty of Berlin of 1878 bound the new states then recognized to concede certain liberties to minorities.⁴ But for one reason or another these attempts to protect minorities by international agreement met with indifferent success.

C. Efforts of the League of Nations to achieve this objective:-

The covenant of the League of Nations reflected the very limited international concern with human rights.⁵ The big powers

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1. Mair, L.P., The Protection of Minorities (London, 1928) p. 26.
 2. Ibid., p. 30.
 3. Mower, Edmund C., op.cit., p. 453.
 4. Webster, C.K., The League of Nations in Theory and Practice (London, 1933) p.208.
 5. Kotchning, The United Nations and Promotion of the General Welfare (Washington D.C., 1957), p.648.

of the time opposed the proposals to get incorporated in the constitution of the League of Nations certain provisions regarding racial equality and guarantees against religious persecution. In this way all efforts to codify human rights on an international basis were thwarted and defeated. But general concern was expressed, directly or indirectly, by a number of actions taken at that time.¹ The phrase, "Human Rights and Fundamental freedoms", which is of such importance in the Charter of the United Nations, did not appear in the covenant. Neither the Council nor the Assembly of the League subsequently dealt with questions of human rights as such or considered charges of violation of human rights.

The subject of human rights was not mentioned in the covenant. It was not dealt with by the League, as the leading political figures of the time subscribed to the doctrine that the rights of citizen are a matter for the state concerned and not for the international community.

In two fields of human rights, dealing with mandated territories and minority problems, the League of Nations made a particularly significant advance over the past.²

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1. Luard, Evan, 'The Origins of International concern over Human Rights', The International Protection of Human Rights, Ed. Evan, Luard (London, 1967) p.14.
 2. Kotschnig, op.cit., p. 649.

The establishment of the mandates system by the League reflects in some measure a concern for the human rights of the inhabitants of those territories.¹ Article 22 of the covenant proclaimed that to the German and Ottoman colonies and territories "there should be applied the principle that the well being and development of such peoples form a sacred trust of civilization."²

The covenant contained no provisions concerning the minorities of Europe but a series of treaties and declarations were concluded as an attempt to secure the rights of special groups of individuals. The principal allied and associated powers were conscious of the dangers to international peace that might arise from any unjust treatment of minorities.³ President Wilson, for example, believed that nothing was "more likely to disturb the peace of the world than the treatment which might in certain circumstances be meted out to minorities."⁴

Therefore for the maintenance of peace, the Big Four decided to incorporate minimum guarantees for racial, linguistic or religious minorities in the fundamental law of several of the European states. The responsibility for the protection of

1. Luard, Evan, op.cit., p. 21.

2. Kotschnig, op.cit., p. 651.

3. Schwarzenberger, Georg, Power Politics (London 1964) p. 456.

4. Benns, F. Lee, Europe Since 1914 (London, 1930), p.197.

minorities in Europe was assigned to the League of Nations by a series of treaties between the principal allied and associated Powers and various European states in 1919 and 1920.¹

Minorities were defined in the Minorities Treaties, as groups of persons who, by language, religion or race, differed from the majority populations.²

Treaties for the protection of minorities were concluded between the principal allied and associated Powers, on the one hand, and Yugoslavia, Czechoslovakia, Greece, Poland and Roumania on the other; and special chapters were inserted in the treaties of peace with Austria, Bulgaria, Hungary and Turkey. The obligations undertaken were similar in each case. Although the Minorities Treaties differed slightly in details, they were very similar.³ The states concerned pledged themselves by these treaties to guarantee to national, religious and linguistic minorities of their inhabitants, enjoyment of certain carefully defined rights. The League of Nations was charged with the duty of seeing that these pledges were faithfully executed.

On June 28, 1919, the first of the Minorities Treaties was concluded between the Principal Allied and associated powers and Poland. This treaty formed the model for all the rest. It

1. Hedges, R.Yorke, International Organization (London 1935) p. 126.
2. Schwarzenberger, Georg., op.cit., p. 456.
3. Webster, C.K., op.cit., p. 205.

contains special provisions concerning the Jews. According to this treaty Poland undertook to assure full and complete protection of life and liberty to all her inhabitants, without distinction of birth, nationality, language, race or religion. These provisions, in so far as they affect minorities, were declared to constitute "obligations of international concern", and were placed under the guarantee of the League of Nations.¹

The states which were called upon to grant guarantees to minorities vehemently opposed the demand and insisted that they were being compelled to do something which the great powers themselves would never be willing to do. They pointed out that such exactions were an infringement of their own sovereignty and would only help to perpetuate the separatist tendencies. The Big Powers, however, forced the acceptance of the various guarantees and insisted that the demands were in the interest of the peace of Europe, for which, after all, they were chiefly responsible.

There were a number of League activities, which, in effect at least, served to protect the human rights of individuals.² The long standing international concern over slavery found concrete expression in the establishment of a committee on slavery and in 1922 an anti-slavery convention was signed. In 1921 an

1. Hedges, Yorke R., op.cit., p. 129.

2. Luard, Ivan, op.cit., p. 16.

organization for the relief and rehabilitation of refugees was also established by the League.

During this period another form of international activity which in effect served to protect individual human rights was that undertaken by the International Labour Organization. The International Labour Organization devoted itself to preserve labour standards and to reduce hours of work. It was established¹ immediately after the war.

D. Failure of the League — as it failed to protect the rights and aspirations:-

During the inter-war period, however, International Cooperation produced no comprehensive programme for the protection of human rights.² The stress laid in President Wilson's Fourteen points, in the 1919 Peace Treaties, and in the Minorities Treaties was not upon the rights of individuals but upon the rights of minority groups within nations.

One of the most striking defects was the confinement of the application of the system to the small states of Eastern and Central Europe. This restricted range of the authority and activities of the League was deplored by minority organizations.³

1. Ibid., p. 18.

2. Waters, Maurice, op.cit., p. 425.

3. Claude, Inist., National Minorities (U.S.A., 1955) p.35.

The minorities were continuously and sometimes vehemently critical of the League system because it fulfilled neither their expectations nor their demands.¹

The attitude and behaviour of the minorities themselves was another factor in the ineffectiveness and collapse of the League system. While the minorities had no legal standing as participants in the system, it was nevertheless true that moderation and cooperation on their part were necessary to its success. The attitude of the minorities toward the League system was critical. Their demands for substantive and procedural reform were so far-reaching and insistent, that they tended to reject that system as utterly worthless. Many of their criticisms were well-grounded, but the protection provided by the League was better than no protection at all, and the League system had possibilities of development and effective operation.²

The League of Nations and International Labour Organization^{dealt} with some aspects in the field of human rights. Main interest was shown especially in the fields of slavery, forced labour, mandated territories and minorities. However, in general, the traditional concept that the civil, political, economic and social rights of the individual were strictly a concern of the nation state was respected.³ It was only after

1. Webster, C.K., op.cit., p. 218.

2. Claude, op.cit., p. 43.

3. Kotschnig, op.cit., p. 653.

the economic depression of the thirties and the subsequent rise of Hitler and the second world war that the traditional concept was modified and the international community began to evince and assume greater interest in, and obligation towards the rights of the individual.

The minorities system of the League of Nations worked tolerably well in the "twenties." Yet inseparably its fate was linked with that of the League itself.¹ After 1931, the League of Nations gradually disintegrated and with that the League minorities system also broke down. It was an integral part of the League and its destiny could not be separated from that of the League.

1. Schwarzenberger, op.cit., p. 456.

C H A P T E R I

U.N.O.— AND THE EVOLUTION OF THE CONCEPT OF HUMAN RIGHTS

The second World War marked a turning point in the development of international concern for human rights. Due to the systematic persecution of the Jews by the Nazis, the role of totalitarian ideologies in national politics, particularly in Germany and Italy, depriving the individual of both his civil and political rights, subjecting him to police tyranny and brutal oppression on grounds of race or religion, the attention of the world was centred on the question of the protection of human rights internationally.¹

During the course of the Second World War, views and opinions were voiced from different quarters all over the world as to the place of human rights in the international order which was to follow the end of hostilities. A major contributing cause of World War II had been the violations of fundamental human rights.² The awareness of the fact of human rights being a matter of international concern turned into a conviction in the trials and tribulations of the Second World War and a number of proposals were advanced for enforcement of human rights.³

1. Rzejifor, Gains, Protection of Human Rights Under the Law (London, 1964) p.53.
2. Vandenbosch & Hogan, op.cit., p. 299.
3. Sharma, Surya P., "The Promotion of International Protection of Human Rights : Problems and Prospects" International Studies (October 1965) p.265.

The wartime speeches of both American as well as of British leaders gave special emphasis to the need for exercising the fascist and Nazi tyranny and safeguarding human rights in the peace settlement.¹ The spokesmen for the governments at war with the Axis powers frequently defined their war aims in terms of human rights.² These pronouncements and declarations were stimulated by the increasing evidences of a new barbarism and it was therefore, realized that the foundations of a durable peace could be built upon respect for the rights of man.

The new thinking found expression in President Roosevelt's message to Congress on January 1941, when he referred to the "Four essential human freedoms" to which he looked forward as the foundation of a future world : freedom of speech and expression, freedom of worship, freedom from want and freedom from fear, for all people everywhere in the world.³ The last two of these freedoms were clearly reaffirmed the following August in the Atlantic Charter and on January 1, 1942 received a wide sanction in the Joint Declaration of the United Nations. It is clear that the list does not exhaust freedoms which might reasonably be considered essential yet the part it played in the whole movement should not be underestimated.⁴

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1. Kotschnig, op.cit., p. 654.
 2. International Conciliation (New York, 1967), p.87.
 3. Halcombe, Arthur N., Human Rights in the Modern World (New York, 1948), p.4., Also see Year Book of the United Nations, (1946-47).
 4. Ezejiolor, Gaius, op.cit., p. 54.

In the Atlantic Charter, President Roosevelt and Prime Minister Churchill expressed their hope, that after the final destruction of the Nazi tyranny there would be established "a peace which will afford assurance that all the men in all the lands may live out their lives in freedom¹ from want and fear."

On January 1, 1942, similar assurances were incorporated by reference in the Declaration by the United Nations, which was signed by the representatives of twenty six countries, including the four major powers, the United States, the U.K., the U.S.S.R. and China. The common objectives of this Declaration were the defence of "life, liberty, independence and religious freedom", and the preservation of "human rights and Justice in their own lands as well as in other lands."²

Little attention was given to the matter of human rights in the preliminary discussions on the drafting of a Charter for a new international organization to take the place of the League. The Dumbarton Oaks proposals briefly referred to the promotion of human rights as one of the activities to be performed by the proposed General Assembly and, under its authority, by the Economic and Social Council.³ The following provision was agreed upon at the conference:

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1. Humphrey, John P., "The U.N. Charter and the Universal Declaration of Human Rights". The International Protection of Human Rights, Ed. Evan, Luard (London, 1967) p.39.
 2. Maskowitz, Moses, Human Rights and World Order (New York, 1958) p.18.
 3. Goodrich, Leland M., The United Nations (London, 1960), p.245.

"With a view to the creation of conditions of stability and well being which are necessary for the peaceful and friendly relations among nations, the Organization should facilitate solutions of international economic, social and other humanitarian problems and promote respect for human rights and fundamental freedoms. Responsibility for the discharge of this function should be vested in the General Assembly, in the Economic and Social Council."

This statement did not satisfy world opinion. It was felt that it did not go far enough. Therefore several delegations, specially those from small countries went to San Francisco, determined to enlarge the scope of United Nations action in this field. Eventually the sponsoring powers gave their support to the movement and an amendment to the Dumbarton Oaks¹ proposal was approved.

Largely because of the efforts of the delegations of certain small countries at San Francisco, the human rights provisions of the Charter, as finally adopted, are considerably stronger than those of the Dumbarton Oaks proposals. The text of the Charter of the United Nations which emerged from the San Francisco conference had a good deal more to say on the subject of human rights than had the Dumbarton Oaks text.

1. Ezejiakor, Gaius, op.cit., pp. 56-57.

Sometimes the San Francisco Conference was referred to by the Americans as "the Conference to end all conferences." It was the biggest international conference ever held. The San Francisco Conference established an organization by means of a Charter or constitution.¹

When finally approved, the Charter of the United Nations, in sharp contrast to the Covenant of the League of Nations contained a number of references to human rights both in the preamble and in the substantive articles.² A new era had been reached in human relations when the Charter of the United Nations was drawn up in 1945. Its preamble proclaimed the determination of the peoples of the world to reaffirm their faith in fundamental human rights and in the dignity and worth of human person. Although it took man ages to think of drawing up a universal charter, which speaks of human rights, it stands to the credit of our generation that we have begun to acknowledge the necessity of granting and upholding these freedoms and rights.

There are a number of reasons which explain or justify the contemporary international concern with human rights and fundamental freedoms, the more immediate and pressing being directly related to the origins and conduct of World War II.

1. Humphrey, John P., "The U.N. Charter and the Universal Declaration of Human Rights", The International Protection of Human Rights, Ed. Evan Luard (London, 1967), p.40. Also see Year Book of the United Nations (1946-47).
2. International Conciliation (New York, 1967) p.88.

A solemn protest against the brutal oppression, torture and assassinations associated with the Nazi-fascist method of government resulted in the affirmation of human rights and fundamental freedoms in the United Nations Charter. It was also recognized that the security of individual rights, like the security of national rights, was a necessary requisite¹ to a peaceful and stable world order.

One of the principal purposes of the United Nations is "Respect for human rights and fundamental freedoms." The United Nations Charter made seven definite references to the matter of human rights and indicates wide possibilities of the international recognition of human rights.²

In the Preamble to the charter there is a re-affirmation of faith ".....in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women and of nations large and small....."

The second reference is to be found in Article 1. Article 1 declares one of the purposes of the Organization to be the achievement of ".....international cooperation... ..in promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language or religion."

1. Moskowitz, Moses, op.cit., p. 157.

2. Chopra, S., "Universal Declaration of Human Rights", The Indian Journal of Political Science, (October-Declaration 1959), p. 373. Also see, Humphrey.

The third Charter reference is in Article 13. The fourth reference, in Article 55, should be read together with Article 56 which creates the only clear legal obligation in the Charter on members to promote respect for human rights. Article 56 says that "all members pledge themselves to take joint and separate action in co-operation with the Organization for the achievement of the purposes set forth in Article 55", and Article 55 lists a number of things including "Universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language or religion."

The fifth Charter reference to human rights is in Article 62, para 2, which states that the ECOSOC "may make recommendations for the purpose of promoting respect for, and observance of, human rights and fundamental freedoms for all."

Article 68, the sixth reference says that the Council "shall set up commissions in Economic and social fields and for the promotion of human rights, and such other commissions as may be required for the performance of its functions." The seventh and last reference to human rights in the Charter is in Article 76, where one of the objectives of the trusteeship system is declared to be "to encourage respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language or religion and to encourage recognition

of the interdependence of the peoples of the world."

The promotion of and the encouragement of respect for, human rights have received particular mention among the organization's major purposes. The U.N. represents the latest stage so far reached in the history of international organization, in efforts to create a machinery by which nations work together for peace and for better living conditions for all mankind.

Special responsibilities in the sphere of human rights, under the Charter, were given to the three principal organs of the United Nations the General Assembly, the Economic and social council and the Trusteeship Council.¹

Four of the specialized agencies in the United Nations system of organizations - the International Labour Organization, the UNESCO, the WHO and the FAO have a special interest in the protection of specific human rights.²

But a remarkable and consistent restraint in the drafting of the several parts of the charter concerning human rights is revealed by a careful study of the text. It had been suggested by some of the delegates at San Francisco that it should

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1. Lee, Marc, The United Nations and World Realities, (New York, 1965), pp. 157-158.
 2. The United Nations and Human Rights -, U.N. Publication (New York, 1968) p.11.

be the function of the U.N. not only to "promote" and "encourage" but also to "protect" the fundamental rights of man. However, this proposal was rejected on the grounds that it would impose upon the organization duties and functions which only individual states are competent to perform.

In various provisions the Charter of the United Nations indicates wide possibilities of the international recognition of human rights. But it does not mean that the provisions of the Charter on the subject signify a full and effective guarantee of the inalienable rights of man on the part of the international society; the charter does not offer or incorporate a precise definition of these rights nor does it indicate a clear acknowledgement of the principle of the enforcement of their observance.

CHAPTER II

INTERNATIONAL BILL OF RIGHTS

A proposal to embody an "International Bill of Rights" in the Charter was put forward at the San Francisco Conference which drafted the charter of the United Nations. But at that time it was not examined because it required more detailed consideration than was possible at the time.

While the San Francisco Conference did not undertake to define human rights and fundamental freedoms, it recognized that this must be one of the initial tasks of the U.N.¹ At its first session in February 1946, the Economic and Social Council had established the Commission on Human Rights. It consisted initially of only nine members and decided that its work should be directed toward submitting proposals and reports regarding:

- (a) an International Bill of Rights;
- (b) international declarations or conventions on Civil liberties, the status of women, freedom of information, and similar matters;
- (c) the protection of minorities;
- (d) the prevention of discrimination on grounds of race, sex, language or religion;
- (e) any other matter concerning human rights.²

1. Goodrich, Leland M., The United Nations (London, 1960) p. 247.

2. Kotschnig, op.cit., p.664. Also see Year Book of the United Nations, 1946-47 (U.N., 1947) p.523.

The Commission on human rights is the operating heart of the United Nations machinery for the protection of human rights. In 1946, under the Chairmanship of Mrs. Franklin D. Roosevelt the Commission on Human Rights came into existence¹ and it began its work in January 1947.

The meeting of the preparatory Commission of the United Nations and its executive Committee was held in the autumn of 1945. It recommended that the work of the Commission on human rights, the establishment of which is provided in Article 68 of the United Nations Charter should be directed, in the first place, towards the "formulation of an International Bill of Rights", and the General Assembly concurred with these recommendations early the following year. Accordingly, when the terms of reference of the Commission on Human Rights were laid down by the Economic and Social Council, the preparation of "an International Bill of Rights" was the first item on² its work programme.

In January and February 1947, the Commission on human rights held its first session. Soon differences of opinion developed as to the exact nature of the end product which³ should be prepared. The United States favoured a declaration

1. Everyman's United Nations (New York, 1964), p.306.
2. The United Nations and Human Rights, U.N. Publication (New York, 1968) p.11.
3. Goodrich, op.cit., p. 247.

that would set forth goals and aspirations rather than legally binding commitments. On the other hand, the United Kingdom preferred a treaty which would contain detailed and precise provisions and would legally bind all states accepting it. Finally, it was decided that both approaches should be adopted, and that two major documents should be prepared, one a declaration of general principles and the other a covenant¹ of binding obligations.

Immediately after the meeting of the Commission it became apparent that the drafting of an International Bill of Rights² would have to be done in several stages, as different and even divergent views were expressed about the form the International Bill of Rights should take. It was decided eventually that the "International Bill of Rights" would consist of a Declaration of Human Rights, one or more conventions on Human Rights and the necessary international measures of implementation. In 1947, the Commission on Human Rights recommended this formula. In the following year it was approved by the General Assembly and it led to the promulgation of the Universal Declaration of Human Rights³ as the first of these projected instruments.

1. Ibid., p. 248.

2. Vandenbosch & Hogan, op.cit., p. 300.

3. The United Nations and Human Rights, p. 11.

UNIVERSAL DECLARATION OF HUMAN RIGHTS:-

Once again the struggle of man to define his rights in society and to develop institutions to protect them found expression in the "Universal Declaration of Human Rights". On different occasions and in different times the desire for fundamental freedoms and protection against legislative and for executive aberrations had resulted in such Charters of liberty as the Magnacharta (1215), the Bill of Rights (1688) in England, the Declaration of the Rights of man (1789) in France, and the first 10 amendments to the United States Constitution, known as the Bill of Rights. Unlike the Declaration these national bills of rights, however, were justiciable and could be enforced by the national courts.

The Universal Declaration of Human Rights was drafted in 1947 and 1948 by the Commission on Human Rights under the¹ Chairmanship of Mrs. Franklin D. Roosevelt. This work was done in a very careful and meticulous way. The first draft was prepared by a drafting committee after using documentation furnished by the Secretariat. The Commission as a whole revised it in the light of views and comments of member governments. Then the revised draft was circulated, the drafting committee met again, and the Commission prepared its final² proposal.

1. World Mark Encyclopedia of the Nations, U.N. Publication (New York, 1967) p.102.

2. Vandembosch & Hogan, op.cit., p. 301.

This proposal went to the Economic and Social Council and then to the General Assembly which referred the proposal to its Third Committee. A detailed examination was made by this Committee. By the end of 1948, the resulting document was sent to the General Assembly. On the night of December 10, 1948, after a long and difficult discussion, the General Assembly took the first step towards an International Bill of Rights under the name of the "Universal Declaration of Human Rights." The General Assembly adopted it without a dissenting vote : 48 in favour, none against, 8 abstentions and 2¹ absences.

This Declaration constituted the first inter-governmental² statement of human rights in history. The two great World Wars within a single generation, and the unparalleled atrocities committed by the Nazis gave momentum to the forces working for the observance of human rights. Mankind thus came to write its Charter of liberty in the form of the Universal Declaration of human rights^{The Universal Declaration of Human Rights} is undoubtedly one of the most outstanding documents in man's struggle from the days of antiquity against human tyranny and persecution. The General Assembly adopted it, in order to amplify and enlarge the mention made in the Charter regarding human rights.

1. Goodspeed, Stephen S., The Nature and Function of International Organization (New York, 1967) p.517.
2. Goodrich, op.cit., p. 248.

The Declaration was drafted in pursuance of the dispositions of the Charter. It introduced the promotion of a respect for human rights as an international concern of primary importance. The Declaration expresses the spirit of the Charter¹ by enlarging the aims and purposes of the United Nations.

It was partly the memory of crime and destruction and partly the recognition of law as a means of guaranteeing the free, just and peaceful co-existence of all peoples, that led the U.N. to appeal to all members' states and all peoples to adopt the Universal Declaration, to make it known, to respect it and to promote respect for it.²

After the approval of the General Assembly the Declaration became operative. It was not necessary to submit it to members for notification in accordance with their various constitutional procedures because it was not a treaty and was not intended to impose legal obligations. The Declaration is not by its nature and by the intention of its parties a legal document imposing legal obligations.³ This is clearly shown by the language of the Universal Declaration of Human Rights.

This Declaration was not binding, therefore states with different cultural backgrounds, political and legal systems and

1. Drost, Pieter N., Human Rights as legal rights (Netherlands, 1965) p.33.

2. U.N. Monthly Chronicle, December 1965, p.1.

3. Goodrich, op.cit., p. 248.

ideologies found it much easier to agree on general principles of this declaration. The declaration was designed as a broad clarification and recommendation of policy rather than an enforceable treaty obligation.¹

The Universal Declaration of Human Rights is one of the greatest achievements of the United Nations. It has been hailed as an historic ^{event} ² of profound significance. It includes social and cultural rights whereas the previous declarations were content to include personal, civil and political rights. The Universal Declaration of Human Rights is a political document. Its political nature is evident from the following. First, the U.N. itself is a political organization. Second, the General Assembly which adopted it, consists of members who are the political representatives of the various nations of the world. Third, the declaration itself is the result of what is called the "politics of protest."

The Declaration constitutes an important landmark in the evolution and development of the law of nations. Though it is not to be considered binding as a treaty, it has developed such moral authority that it is not only a source of law but is also coming to have the force of law, though it was intended to be,

1. Waters, op.cit., p. 428.

2. Lauterpacht, H., International Law and Human Rights (London, 1950) p.394.

as its preamble says, "a common standard of achievement for all peoples and all nations."

As finally approved, the Universal Declaration of Human Rights consists of a preamble and 30 articles. In thirty articles, the Declaration sets forth basic rights and fundamental freedoms to which all human beings everywhere in the world are entitled without any discrimination. Of the Declaration's thirty articles, the first two and the last three are of a general nature, applying to all the rights enunciated in the document. Articles 3 to 21 deal with Civil and political rights, which have been widely recognized throughout the world, specially in the western countries. Articles 22 to 27 deal with social and economic rights. These rights find precedents in the more recent national constitutions and are of a more novel nature.

Article 1 of the Declaration adopts the philosophy of natural rights which states that "all human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act toward one another in a spirit of brotherhood."

Article 2 proclaims that "everyone is entitled to the rights and freedoms set forth in the Declaration, without distinction of any kind, such as race, color, sex, language, religion, political or other opinion, national or social origin,

property, birth or other status" and irrespective of whether a person belongs to an independent nation or not.

The personal, civil and political rights mentioned in Articles 3 to 21 summarize the rights that have long been recognized in the constitutions, bills of rights and statutes of most countries of the world : the right to life; liberty; the right to equal protection of law; the right to a fair trial; the right to a nationality; the right to property; the right to freedom of thought, conscience and religion etc. Articles 22 to 27 deal with Economic, Social and Cultural rights. These rights are not included in older bills of rights and constitutions, but are found in many of the newer ones. The Universal Declaration includes these rights, on important philosophical and practical grounds. As stated by the U.N. General Assembly in another connection, "the enjoyment of civil and political freedoms and that of economic, social and cultural rights are interconnected and interdependent" and man is not free if he is "deprived of economic, social and cultural rights."¹ These articles (22 to 27) deal with the right to work under just and favourable conditions, the right to equal pay for equal work, the right to rest and leisure etc. The concluding three articles 28 to 30 create a common framework for all

1. World Mark Encyclopedia of the Nations, p. 102.

rights so far mentioned. Since human rights can only be safely enjoyed in the absence of terror, turmoil and war, article 28 states that "everyone is entitled to a social and international order in which the rights and freedoms set forth in this declaration can be fully realized." Article 29 counterposes duties to rights; "everyone has duties to the community." Furthermore, it is proclaimed as a general principle that "these rights and freedoms may in no case be exercised contrary to the principles and purposes of the U.N."

The Universal Declaration of Human Rights with its Preamble and thirty articles represents a remarkable effort to arrive at unanimity on so complex and fundamental a matter as that of human rights. Undoubtedly the adoption of the Declaration without a dissenting vote was an impressive expression of a general consensus. Though this declaration did not have the character of a treaty, yet it was bound to have a substantial influence on the discussions and decisions of the United Nations.

In its own words,, the Declaration is "a common standard of achievement for all peoples and all nations." The adoption of the Universal Declaration of Human Rights was a landmark in the history of the United Nations. The statement by General C.P. Romulo of the Philippines expressed the sentiments of the Assembly on this accomplishment : "To the roll of the historic declarations of the rights of man, the United Nations now adds

the most comprehensive document of all, the first in history to define from a truly universal standpoint the basic rights and fundamental freedoms to which all men and women everywhere are entitled."

The Declaration represents a protest against thousands of years of oppression and exploitation of man by states, groups or other men. December 10, is celebrated as Human Rights day in the memory of the Declaration's adoption.

The Declaration is, however not free from blemishes and shortcomings. Article 1 of the Declaration affirms that "all human beings are born free and equal", and that they are "endowed with reason and conscience." As theoretical statement they may be alright in so far as they reiterate the principles of human dignity and equality, but not appropriate to a document which, if enacted as a national law or concluded as an international agreement would assume a legal character. The statement that all human beings are born free and equal is a specific natural law doctrine and this doctrine is not generally accepted. "The Declaration should not be introduced by philosophical postulates from outdated theories of natural law." This criticism came from Brazil at the time of the adoption of this declaration. From the point of view of a bill of rights, the question is not how human beings are born, but their status as citizens and the nature and kind of protection to be assured

to them. The Declaration, however, starts with a problematical statement and places the whole document under the sway of a highly disputed doctrine without providing specific guarantees¹ for the observance of its provisions.

According to some publicists and Jurists the Declaration has legal authority. They argue as follows:

"The Charter of the United Nations, is a legally binding treaty. Under the Charter, all member states "pledge themselves to take joint and separate action" to promote "Universal respect for, and observance of human rights and fundamental freedoms for all without distinction as to race, sex, language or religion (55 & 56). The Charter, however, does not define human rights. It is the Universal Declaration that gives an authoritative interpretation. To the extent that Member states are bound by the human rights provisions of the Charter, they are to some extent obliged to observe the Universal Declaration."²

It is further argued that many of the provisions in the Declaration are based on National Constitutions and bills of rights. It may therefore be said that the Declaration

1. Kelson, Hans, The Law of the United Nations (London, 1950) pp. 40-41.

2. Mousheng, Lin, "The Human Rights Program", Annual Review of the United Nations Affairs, 1961-62, Ed. Swift, R.N., (New York, 1963) p. 105.

contains a number of "general principles of law recognized by civilized nations."

It is, on the other hand, said that the provisions of the United Nations Charter form the legal basis on which the Declaration is based, and the Charter does not provide for human rights. The Declaration is neither more nor less than a recommendation without the obligatory character of a treaty. It cannot, therefore, constitute a source from which legal rights can be derived. As a super-structure on the Charter, the Declaration does not possess any reality in law which is not present likewise in the Charter.¹ Undoubtedly, on certain occasions the Declaration may be invoked by private and official bodies, including the organs of the U.N. But it will not and cannot, properly be invoked as a source of legal obligation.² The logic that Member states should respect the Charter and any declaration or recommendation based on it does not lead to the acceptance of the Declaration as a code of human rights in International law.

It is generally accepted that the Declaration should have great influence on the law but it is denied that it forms part of the law.³ It is not a treaty. It derives its force as

1. Drost, Pieter N., op.cit., p. 36.

2. Lauterpacht, H., op.cit., p. 415.

3. Drost, Pieter N., op.cit., p. 36.

a statement of moral judgement, a declaration of man's faith¹ in himself, of his belief in human dignity.

The Declaration has nevertheless great political and moral authority. It has had a definite impact on the thinking and practice of the United Nations itself and of governments, when dealing with problems relating to human rights. Its influence is visible in national constitutions; it has been² quoted in legal decisions. From the time it has been adopted, the Declaration or individual articles from it are frequently quoted in the United Nations resolutions as setting forth standards to be applied by the states. Many of the International conventions have been based on its ideals, particularly those concluded under the auspices of the United Nations and its specialized agencies. The European Convention for the protection of Human Rights and Fundamental freedoms was inspired³ by the Declaration.

Resolutions and recommendations by United Nations organs often cite the Universal Declaration or specific articles as the basis of an action or a judgement. Its influence has been particularly strong in United Nations actions relating to trust

1. U.N. Monthly Chronicle, February 1967, p.39.

2. Szapiro, op.cit., p. 61.

3. Tiwari, S.C., "Forms of International Organization action for the protection of human rights", The Indian Year Book of International Affairs (Madras, 1965), p.31.

territories as well as colonies and other dependencies. The General Assembly has urged countries to abolish discriminatory laws and practices in dependencies, citing the Declaration's¹ condemnation of discrimination, particularly on racial grounds.

The texts of various national constitutions which were enacted after the adoption of the Declaration clearly proved² the impact of the Universal Declaration. In 1959, six newly independent African Countries inserted references to the Declaration into the Preambles of their new constitutions. The Madagase~~r~~ Constitution of 29 April, 1959, for example, pro-³claims that it was inspired by the Declaration.

In the sphere of municipal law the impact of the Declaration can be found in a number of laws and decrees. In 1951, an act was adopted by Paraguay to protect scientific, literary and artistic works. Its Preamble cites article 27, paragraph 2, of the Declaration providing that : "Every one has the right to the protection of the moral and material interests resulting from any scientific, literary or artistic production of which⁴ he is the author." Specific provisions of the Declaration

1. World Mark Encyclopedia of the Nations, p. 103.
2. The United Nations and Human Rights, p. 14.
3. World Mark Encyclopedia of the Nations, p.104.
4. The United Nations and Human Rights, p. 15.

have been quoted in judicial decisions and opinions in various countries. In 1950, the New York supreme court in Wilson Vs. Hacker, held union activities discriminating on the basis of sex to be objectionable. Even though such discrimination was not forbidden by statute, the court argued, it was "a violation of fundamental principle", quoting provisions of the Universal Declaration as "indicative of the spirit of our times."¹

Various regional and other treaties and declarations which were adopted outside the United Nations system also invoke the Universal Declaration. A remarkable example is the European Convention for the protection of Human Rights and Fundamental freedoms signed on 4th November, 1950 by the 15 member governments of the Council of Europe in Rome. The European Commission on human rights and European court of human rights, these two organs have been set up to ensure the observance of the obligations undertaken by the contracting parties. This Convention came into force on 3rd September, 1953.² In May 1948, the Hague Congress had called for a "Charter of Human Rights guaranteeing liberty of thought, assembly and expression, as well as the right to form a political opposition" and for the creation of a "court of Justice with adequate sanctions for the implementation." In August 1949, the inclusion of a

1. World Mark Encyclopedia of the Nations, p. 104.

2. Ezejiofor, Gaius, op.cit., p. 101.

Convention on human rights was proposed by the Consultative Assembly of the Council of Europe to the Committee of Ministers. It also submitted a detailed draft. Two separate committees of governmental experts prepared the text and submitted to the ministers. After the Assembly's opinion had been obtained the European Convention for the protection of Human Rights and Fundamental freedoms was signed.¹ This Convention embodies in a more precise and limited form, binding obligations relating to the Civil liberties; as mentioned in the Universal Declaration. The signatory governments, members of the Council of Europe recalling, inter alia, the Universal Declaration of Human Rights proclaimed by the General Assembly on December 10, 1948, resolved, "as Governments of European Countries which are likeminded and have a common heritage of political traditions; ideals, freedom and rule of law, to take the first steps for the collective enforcement of certain of the rights stated in the Universal Declaration."²

It constituted a great advance on the Universal Declaration of Human Rights. Whereas the latter amounted in the last analysis to nothing more than an expression of intentions, the European Convention contains specific legal commitments which³ have been accepted by fifteen governments.

1. Robertson, A.H., "The United Nations Covenant on civil and political rights and the European Convention on Human Rights", British Year Book of International Law 1968-69 (London, 1970), p.22.
2. Ezejifor, Gaius, op.cit., p. 104.
3. Robertson, A.H., "The European Convention for the protection of human rights" British Year Book of International Law 1960 (London, 1961) p.162.

All the rights and freedoms enumerated in the Universal Declaration are not embodied in this convention. It contains only some of the Civil and political rights and freedoms. The main reason seems to be that some of the rights set out in the Universal Declaration are not capable of Judicial enforcement; therefore, they were not considered appropriate for inclusion¹ in the Convention under which such enforcement was envisaged.

In 1955 a General Convention was signed between France and Tunisia in Paris. According to this Convention, Tunisia agreed to grant to all persons living within its territory the rights and personal guarantees proclaimed in the Universal² Declaration of Human Rights.

Since its adoption this Declaration can thus be said to have exercised a profound influence upon the minds of men.³ It has been translated and distributed in some fifty languages.

The General Assembly urged all the Member States to give the Declaration the widest circulation and publicity possible.⁴ Both the Secretary General of the United Nations and the President of the General Assembly, year after year address messages to the peoples of the world appealing for a better and

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1. Ezejiolor, Gaius, op.cit., p. 104.
 2. World Mark Encyclopedia of the Nations, p. 103.
 3. Everyman's United Nations, U.N. Publication, (New York, 1968), p. 349.
 4. Goodspeed, Stephen S., op.cit., p. 519.

faster protection of human rights. Since December 10, 1948, when the Universal Declaration of Human Rights was adopted, all over the world people have become conscious of their fundamental rights, which are truly the foundations of freedom,¹ Justice and peace.

The year 1968 was observed as "International Human Rights Year", because it was the twentieth anniversary of the adoption of the Declaration. The main purpose of designating 1968 as the International Year of Human Rights was to inform world opinion of the importance of the Declaration. Throughout this year, conferences, seminars and meetings were organized by member states with a view to publicise the Declaration and to promote a better understanding of the issues involved.

In pursuance of the General Assembly decision, an International Conference on Human Rights was held at Teheran in April and May 1968. Inaugurating the conference, Shah of Iran appealed for "appropriate revision" of the principles of the twenty year old Human Rights Charter to suit today's circumstances. U Thant, former Secretary-General of the United Nations urged the world community to "put an end to serious violations of Human Rights." The conference was attended by more than 1000 delegates from 71 countries and 52 agencies and international organizations. The delegates attending the session stood in ,

1. U.N.Monthly Chronicle, December 1964, p.1.

one minute silence for the late Dr. Martin Luther King. The tribute to the American Civil Rights leader was proposed by the Uganda Delegation. Dr. King was described as "that great man who lived and died for Human Rights."

The Declaration is explicit and eloquent about the inalienable human rights in private, civil, political, economic, social and cultural fields, but few countries have made any serious effort to implement them. There are still instances of encroachments upon human rights and fundamental freedoms. In some parts of the world the practice of slavery and servitude is still continuing, discrimination based upon race, sex, language and religion exists. Freedom of thought, conscience and religion is not fully guaranteed everywhere. There is hardly any freedom of speech and political activity in the Soviet Union, China and other Communist countries. In the Union of South Africa, all human beings are not treated alike, and so is the case in Rhodesia.

But notwithstanding its limitations, and occasional vibrations, the Declaration constitutes a creditable achievement.

B —

The General Assembly, before voting on the final version of the Universal Declaration, decided that the next step should be the preparation of a covenant on human rights.¹ In

1. World Mark Encyclopedia of the Nations, p. 104.

its resolution proclaiming the Universal Declaration^{of} Human Rights, the General Assembly requested the Economic and Social Council to ask the commission on Human Rights to continue to give priority to ~~h~~ preparing a draft Covenant on human rights and a draft measure of implementation.¹

A covenant is an international treaty, and countries ratifying or acceding to a covenant are under a legal obligation to carry out its terms. No wonder then, that it has been rather more difficult and trying to secure universal consensus for the adoption of a covenant or treaty on human rights. From the time discussions began on the drafting of such a treaty, it was realized that the necessary consensus would not easily be achieved. In 1950, the General Assembly decided to include both Civil and political rights as well as Economic, social and Cultural rights in one covenant. But the General Assembly at its Paris session in 1952, at the urging of the United States, decided that the commission should instead draft ~~x~~ two covenants; one on Civil and political Rights and the other containing Economic, Social and Cultural rights. These covenants would be simultaneously submitted to the Assembly for approval, and afterwards for ratification by the States,² as there are some basic differences between civil and political rights and the

1. Ezejiakor, Gaius, op.cit., p. 90.

2. Goodspeed, Stephen S., op.cit., p. 519. Also see Waters, Maurice, op.cit., p. 428.

newly emerging claims to economic, social and cultural rights.

Four main arguments were put forward in favour of the separation of these rights. In the first place the Economic and Social rights are objectives to be achieved progressively. The states ratifying the Covenant on Civil and political rights will be under obligation to take immediately the necessary steps to safeguard civil and political rights. Secondly, the enactment of legislation is generally sufficient to put into effect civil and political rights. It is quite otherwise with economic and social rights for they depend on the socio-economic conditions in the state. Thirdly, the economic and social rights are drafted in broad sweeping language, on the other hand civil and political rights are drafted with much greater precision. Finally, economic and social rights are to be achieved progressively; therefore, the machinery of complaint, which the committee on Human Rights contemplated for the Civil and political rights, is not a suitable body for dealing with economic and social rights. It was also thought that the separation of these sets of rights would enable countries to ratify ~~on~~ one document to begin with, and then the other at a later stage. But that if a single document embodied all these rights, certain countries might not ratify it at all.

By 1954 the commission on Human Rights completed the drafts of two Covenants, but the adoption of the final texts¹ by the Assembly was to take another twelve years. Between 1955

1. Robertson, A.H., op.cit., p. 22. Also see Year Book of the United Nations, 1956.

and 1966, during the regular sessions of the Assembly, its social, humanitarian and cultural committees made a detailed study of the two covenants article by article. Finally on 16th December, 1966, the General Assembly adopted the International Covenant on Economic, Social and Cultural rights, the International Covenant on Civil and political rights and the optional protocol to the latter.¹

The two covenants approach has been the subject of some severe criticism. It has been argued that all rights are of equal importance and are mutually interdependent. Certain economic, social and cultural rights are essential for the fulfilment of civil and political rights, and therefore any distinction is merely artificial. On the other hand it is said, as indicated above, that the nature of the two categories of rights makes it necessary to treat them separately.²

For the first time in history, international protection for the basic rights of man is provided by the two covenants or treaties on human rights which have been adopted by unanimous vote by the United Nations General Assembly. These covenants in due course would become legally binding on those countries which ratify them. They are to come into force as and when 35 states signify their acceptance of and adherence to the covenants.

1. Ibid., p.22., Also see Year Book of the United Nations, 1966.

2. Goodspeed, Stephen S., op.cit., p. 519.

Countries ratifying the covenant on civil and political rights would undertake to protect their peoples by law against cruel, inhuman or degrading treatment. They will recognize the right of every human being to life, liberty, security and privacy of person. The freedom of thought, conscience¹ and religion are also recognized by the Covenant.

A country ratifying the covenant on Economic, social and cultural rights would acknowledge its responsibility to promote better living conditions for its people. It would recognize everyone's right to work, to fair wages, to social security, to adequate standards of living and freedom from hunger and health. It would also undertake to ensure the right of everyone to form and join trade unions.²

These covenants on human rights are international treaties. These are binding upon governments, willing to subscribe to them. Their main purpose is to establish certain international legal norms which would maintain the relationship between the states, parties to the covenants and their respective citizens and other persons under their jurisdiction as well as the relationship between and among the contracting parties themselves. The main objective of the covenants is to establish

1. U.N. Monthly Chronicle, February 1967, p.38.

2. Ibid., p. 38.

certain binding international rules of conduct and conscience. These rules would guarantee the observance of the covenanted¹ rights and freedoms.

An explicit recognition runs throughout both covenants that the protection of human rights is "the foundation of freedom, justice and peace in the world."

The main difference between the covenants and the Universal Declaration of human rights is that after ratification these covenants would have a binding force in International law, which is not possessed by the Declaration and the covenants are to be supported by measures of implementation.

United Nations - former Secretary General U Thant has called for the earliest possible acceptance by every eligible state of the international human rights treaties. "There is no other way to create the machinery required for the full and effective defence of human rights and fundamental freedoms," U.Thant said in a message on the occasion of Human Rights day in 1968. He added : "There are still too many areas where unemployment undermines the right to work, where literacy inhibits the right to education, where poverty and squalor make a mockery of the right to health, where conflict and violence negate the enjoyment of human rights and fundamental freedoms."

1. Moskowitz, Moses, op.cit., p. 78.

Pleading for general acceptance by all states of the human rights treaties adopted by the U.N., U.Thant said ¹:

"This is a matter of immense concern to every individual and every organisation, who must recognize the importance of further development and implementation in practice of the principles set out in the Charter and in the Universal Declaration of Human Rights as a most urgent task and indeed a necessity for the progress of mankind."

Inspite of the fact that emphasis has been laid on the acceptance of Human Rights on an international scale, governmental action in most countries of the world is still at a declaratory stage. The most important covenants have still remained mostly unsigned and unratified. Rights are meaningless until they can be enforced through some agency. Unfortunately there is yet no really effective agency to enforce the basic human rights detailed in the two covenants.

The recent disturbances and large-scale violence in East Pakistan, which is now known as the People's republic of Bangla Desh is a clear ~~xxxxxx~~ example of the lack of an effective international agency to protect the basic human rights. This is mainly due to the lack of unanimity between the major powers. The barbarities reported to have been committed by the West Pakistani authorities on the unarmed people of Bangla Desh have

1. The Hindustan Times (Delhi) December 11, 1968.

few parallels in modern history. Many villages and residential localities in West Bengal have been destroyed and the entire civil population of the country had been exposed to murder, arson and plunder.

The Vice President of India, G.S.Pathak had criticized those countries which professed human rights but did not raise their voice against the barbarism committed by the military rulers of West Pakistan.¹ Undoubtedly the covenants represent some progress in this direction but; as would be presently seen, the measures proposed are weak and cannot be expected to prove effective in upholding human rights in the face of their violation. There is no judicial agency to safeguard these rights.

C. Implementing machinery for Human Rights:—

One of the reasons put forward for preparing two separate covenants was the view that different measures of implementation would be required for the two categories of rights.² During the last three years of its work on the two human rights covenants, the Third Committee concentrated on the delicate issue of enforcement measures. After much discussion, it was

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1. The Hindustan Times, December 28, 1971.
 2. The United Nations and Human Rights, p. 88.

decided that the provisions for hearing complaints concerning violations of the covenant would not be included in the covenant on Economic, Social and Cultural rights. States that become parties to this covenant would be required, however to report periodically to the Economic and Social Council on the progress they have made in carrying out its provisions.¹

The articles on implementation adopted by the Commission on Human Rights provided that with regard to civil and political rights, a Human Rights Committee should be established, empowered to hear complaints from signatory states. It would hear and mediate disputes arising over violations of the rights contained in the covenant. The Committee would also perform the role of a fact-finding body and would make available its good offices to the states concerned with a view to reaching a friendly solution of the matter on the basis of respect for human rights.

It a state, which is party to the covenant, is of the opinion that another state is not respecting a provision of the covenant, it would first call the matter to the attention of that state. If the matter is not settled within six months,

1. World Mark Encyclopedia of the Nations, p. 104.

2. Tiwari, S.C., op.cit., p. 33.

either state then would have the right to place it before the Human Rights committee. The facts would then be ascertained by the committee, which would make available its good offices for a solution. If no friendly solution is reached, the committee would then compile a report on the facts and publish its opinion on whether there had been a violation of the obligations contained in the covenant. Either of the states concerned could then submit the case to the International court of Justice.¹

An additional means of implementation proposed is a system of reporting on legislative or other measures including judicial remedies, adopted by individual states which give support to the rights in both covenants.² These reports should be submitted to the Economic and Social Council, which would indicate steps taken by the parties to carry out their obligations and the factors and difficulties affecting the degree of fulfilment of obligations under the covenant. The Economic and Social Council may transmit the reports to the commission on Human Rights for study and general recommendation or, as appropriate,³ for information.

In addition to the reporting system, the covenant on civil and political right provides for a system of state-to

1. World Mark Encyclopedia of the Nations, p. 105.
2. Goodspeed, Stephen S., op.cit., p. 520.
3. Ezejiolor, Gaius, op.cit., p. 92.

state communication in matters concerning the application of¹
the covenant and conciliation.

NEW APPROACHES TO IMPLEMENTING HUMAN RIGHTS MEASURES:-

A three-part human rights programme was launched by the United Nations in the later fifties. It provided for:

1. Periodic reports by member states
2. World wide studies, and
3. Advisory services.

In 1956, the Economic and Social Council, acting on a recommendation of the commission on Human Rights, initiated a system of periodic reports on human rights. Under this system states, who are members of the United Nations and of the specialized agencies, are asked to submit every three years reports describing developments and progress achieved and the measures taken by them to safeguard human liberty in their metropolitan areas and in their non-self-governing and trust² territories, if any. The reports have to deal with the rights enumerated in the Universal Declaration of Human Rights and³ with the right of peoples to self-determination.

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1. The United Nations and Human Rights, p. 89.
 2. Everyman's United Nations, U.N. Publication (New York, 1964), p. 310. Also see Year Book of the United Nations, 1956.
 3. World Mark Encyclopedia of the Nations, p. 108.

The Economic and Social Council at its 1965 summer session revised the system for periodic reporting. Under the new system, the members of the United Nations, members of the specialized agencies and the specialized agencies themselves are invited to supply information regularly within continuing three-year cycle scheduled as follows : in the first year on civil and political rights, in the second year on economic, social and cultural rights and in the third year, on freedom¹ of information.

In 1956, the Council authorized the commission on Human Rights to make studies of specific rights or groups of rights. One of the most extensive studies has been the "Study on discrimination in the matter of religious rights and practices", completed in 1959.²

In 1956 it was decided to undertake a new series of studies in specific human rights. The first such study, on "the right of everyone to be free from arbitrary arrest, detention or exile", was completed by a specially appointed committee³ in 1962.

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1. For details see Year Book of the United Nations, 1965.
 2. Everyman's United Nations, p. 311.
 3. World Mark Encyclopedia of the Nations, pl 108.

At its 1965 session, the General Assembly adopted a resolution calling upon States where racial discrimination is practiced to take urgent steps to implement the Declaration and requested the Commission on Human Rights to recommend, in the light of a special study of discrimination in political, economic, social and cultural matters, any further measures to be undertaken by the U.N. to eliminate racial discrimination. Accordingly, the Sub-Commission on the Prevention of Discrimination and Protection of Minorities decided at its 1966 session to initiate the requisite study.

The third and perhaps the most successful of the new programmes established, is advisory services for the implementation of human rights. The General Assembly, in 1953 and 1954, in three separate resolutions authorized the Secretary General to assist governments, at their request, in promoting and safeguarding the rights of women; in eradicating discrimination; in protecting minorities; and in promoting freedom of information.¹ In 1955, the Assembly incorporated these provisions in a comprehensive resolution on "advisory services² in the field of human rights."

This programme of advisory services was established by the General Assembly resolution 926 (X), under which the

1. For details see Year Book of the United Nations, 1956.
2. Everyman's United Nations, p. 312.

Secretary-General is authorized, to organize seminars on human rights, to award fellowships or scholarships and to extend services of experts to governments.¹

Seminars have served very useful purposes. They are vehicles through which experience and information may be exchanged within a region or inter-regionally.² The seminars, whose participants are persons of high standing in various professions and services, make available an exchange of experience in the protection of human rights to the end that each country may benefit from the experience of the others. In 1961, both the Commission on human rights and the Economic and Social Council emphasized the need to study other effective measures which might be taken through advisory services for the protection of human rights and suggested a greater emphasis on the provision of human rights fellowships and scholarships.³

One of the most clearly well-grounded activities of the United Nations is to compile and publish basic material about human rights in the "Year Book on human rights", the first issue of which was published in August, 1948. These year books are

1. Mousheng, Lin, op.cit., p. 108.

2. Ibid., p. 109.

3. Everyman's United Nations, p. 312.

invaluable for reference purpose, and provide the data upon which sound policy decisions must be based.

Since 1948, the General Assembly has adopted and opened for signature, ratification or accession by the member-states, a number of conventions relating wholly or in part to human rights.

All the rights in the Declaration and the covenants are to be enjoyed by all persons, without any discrimination as to race, sex, language, religion, national or social origin, property, birth or other status. The principle of non-discrimination is basic not only to the covenants but to all United Nations activities to promote human rights.

CHAPTER III

CONVENTIONS & DECLARATIONS

A. Convention on the Prevention and Punishment of the Crime of Genocide:-

The conclusion of a Genocide Convention has been one of the most important achievements of the United Nations in dealing with specific aspects of human rights. As a result of Nazi atrocities, the Convention seeks to make genocide or the¹ destruction of groups of human beings, an international crime. The General Assembly, at its first session in 1946, adopted a resolution condemning genocide "as a crime under international law." Two years later on December 9, 1948, the General Assembly unanimously adopted the Convention on the Prevention and Punishment of the Crime of Genocide. This convention² came into force on January 12, 1951. On December 9, 1948, when the General Assembly unanimously adopted the Convention on the Prevention and Punishment of the Crime of Genocide, the President of the 1948 session of the General Assembly H.V. Evatt called it "on epoch making event."³

Article II of the Convention defines genocide as any of the following acts committed with the intent to destroy,

1. Goodspeed, Stephen S., op.cit., p. 521. Also see Year Book of the United Nations, 1946-47.
2. Everyman's United Nations (New York, 1968) p. 352.
3. World Mark Encyclopedia of the Nations, p.105.

in whole or in part, a national, ethnic, racial or religious group as such:

- a. Killing members of the groups;
- b. causing serious bodily or mental harm to members of the group;
- c. Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part;
- d. Imposing measures intended to prevent births within the group;
- e. Forcibly transferring children of the group to another group.¹

Not only Genocide itself but also conspiracy or incitement to commit it, as well as attempts to commit genocide and complicity in genocide are punishable acts under the convention. Person involved in genocide must be punished "whether they are constitutionally responsible rulers, public officers² or private individuals."

The purpose of the convention is to prevent genocide. States adhering to this convention are required to pass the necessary laws to give effect to it and to grant extradition in cases of genocide. The 'Genocide Convention' is among those, concluded under United Nations auspices that have received the largest number of ratifications.

1. Goodspeed, Stephen S., op.cit., p. 521., Also see Year Book of the United Nations, 1947-48.

2. Everyman's United Nations, p.352, Also see Year Book of the United Nations, 1947-48.

The parties to the Convention are given the right to call upon the competent organs of the United Nations to take appropriate action under the charter for the prevention and suppression of genocide. The International court of Justice is given jurisdiction with regard to disputes relating to the interpretation, application and fulfilment of the Convention, including the responsibility of the parties for acts of genocide.¹

B. Slavery and Servitude:-

Since 1949, the Economic and Social Council has been studying the problem of slavery. In 1949, it asked the Secretary General to appoint a committee of experts "to survey the field of slavery and other institutions and customs resembling slavery, to assess the nature and extent of these problems and to suggest methods of attacking them."

In 1951, after careful inquiries the four-member committee reported to the United Nations, that, apart from slavery in its crudest form, a number of institutions or practices analogous to slavery or resembling slavery in some of its aspects still existed in some parts of the world. Since many of these institutions or practices were not covered by the League of Nations

1. Oppenheim, L., International Law - A Treatise, Vol.I, Peace (London, 1966) p. 751.

Slavery Convention of 1926, the Committee proposed that a supplementary convention be drafted by the United Nations. In 1953, the General Assembly adopted a protocol under which the functions exercised by the League of Nations under the slavery¹ convention of 1926 were transferred to the United Nations.

This Supplementary convention on slavery adopted in 1956, invoked the anti-slavery article of the Universal Declaration. The major purpose of this convention is to bring about the complete abolition of slavery. The convention outlaws certain institutions and practices similar to slavery, such as debt bondage, serfdom, purchase of brides and exploitation of child labour. The convention supplements the 1926 slavery convention adopted by the League of Nations. This convention has² been in force since April 30, 1957.

C. Abolition of Forced Labour:-

The question of forced labour was first taken up by the Economic and Social Council in 1948 and in the following year the Economic and Social Council requested the Secretary-General to cooperate closely with the I.L.O. in its work on questions concerning forced labour, and also to approach all governments and to inquire in what manner and to what extent they would be

1. Everyman's United Nations, p.353. Also see Year Book of the United Nations, 1956.

2. World Mark Encyclopedia of the Nations, p. 105.

prepared to co-operate in an impartial¹ investigation into the extent of forced labour in their countries, including the reasons for which persons were made to perform forced labour and the treatment accorded to them.

A committee on Forced Labour was established jointly by the United Nations and the I.L.O. The committee, in its report, stated that its inquiry had revealed the existence of facts relating to systems of forced Labour of so grave a nature that they seriously threatened fundamental human rights and jeopardized the freedom and status of workers in contravention of the obligations of the United Nations Charter. In 1953, the committee completed its work, and in the same year, General Assembly invited the Economic and Social Council and the I.L.O. to give early consideration to the report of the committee.

After examining the committee's report, in 1954, both the Economic and Social Council and the General Assembly condemned those systems of forced labour and appealed to all governments to re-examine their laws and administrative practices in² the matter.

A second report on forced labour was considered by the Economic and Social Council in 1956. This report was prepared

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1. The United Nations and Human Rights, p.19.
 2. Everyman's United Nations, p. 354. Also see Year Book of the United Nations, 1954.

by the Secretary General and the Director-General of the I.L.O. jointly. On this occasion, the Council again condemned all forms of forced labour as contrary to the principle of the United Nations Charter and the Universal Declaration of Human Rights. A convention on the Abolition of Forced Labour was adopted in June 1957 by the International Labour Conference. The Convention came into force on January 17, 1959¹.

D. Convention on the Status of Refugees and Stateless Persons:-

In connection with the work of the United Nations relating to the status of refugees and stateless persons, a conference of plenipotentiaries convened in Geneva in 1951. This conference adopted the convention relating to the status of Refugees. Another conference of Plenipotentiaries convened in New York by the Economic and Social Council in 1954, adopted the convention relating to the status of stateless persons. It came into force on June 6, 1960.

The Preamble of both conventions invoke the Charter and the universal Declaration of Human Rights, which "have affirmed the principle that human beings shall enjoy fundamental rights and freedoms without discrimination."²

1. Ibid., p. 364.

2. The United Nations and Human Rights, p. 25.

Two principles are the basis of both conventions : first, that there should be as little discrimination as possible between nationals, on the one hand, and refugees or stateless persons, on the other; second that there should be no discrimination based on race, religion or country of origin among refugees and among stateless persons.

A stateless person is defined in the Convention as "a person who is not considered as a national by any state under the operation of its law.¹

E. Freedom of Information:-

In 1946, the General Assembly declared that "freedom of information is a fundamental human right and is the touchstone of all the freedoms to which the United Nations is consecrated." In March and April 1948, a special United Nations Conference was held at Geneva, on Freedom of Information. The conference drew up three draft conventions. Two of the three conventions drafted by this conference — the convention dealing with the international transmission of news and the convention on the International right of correction, were subsequently approved by the General Assembly. The convention on the International right of correction came into force on

1. Everyman's United Nations, p. 355.

August 24, 1962. The Assembly approved the convention dealing with the international transmission of news but has not opened it for signature.¹

The third convention drafted by the 1948 Geneva Conference, the convention on Freedom of Information is still before the Assembly, which is engaged in an article by article revision of it. Its aim is, among other things, to guarantee to everyone, including foreign journalists the right to obtain and divulge information and opinions.²

A new version of the draft convention on Freedom of Information was prepared by a Committee established by the Assembly in 1950. On the basis of the work done by that Committee, the Third Committee of the General Assembly at its 1959, 1960, and 1961 sessions approved the preamble and four operative paragraphs of the draft convention.

In 1950, the General Assembly recommended to all Member States that when they were compelled to declare a state of emergency, measures to limit freedom of information and of the press should be taken only in the most exceptional circumstances.

1. World Mark Encyclopedia of the Nations, p. 106.

2. Ibid., p. 106.

The General Assembly, in 1958 recommended that governments should open their countries to greater freedom of communication by facilitating access to United Nations information programmes, supporting activities of United Nations information centres and facilitating the free flow of accurate information through all media.¹

F. Declaration of the rights of Child:-

On November 20, 1959, the General Assembly unanimously adopted a Declaration of the rights of child. This declaration elaborates upon human rights provisions of the Charter and those of Universal Declaration of human rights, particularly article 25 of the Universal Declaration. The preamble to the Declaration specifically states that "the child, by reason of his physical and mental immaturity, needs special safeguards and care, before as well as after birth."²

In the form of ten principles, the Declaration sets forth, a code for the well being of every child without any exception. It declares that every child shall be entitled to the rights set forth in the Declaration without distinction or discrimination on account of race, colour, sex, language or

1. The United Nations and Human Rights, p. 31.

2. Everyman's United Nations (New York, 1964), p. 315.

religion, national or social origin, property, birth or other¹
status, whether of himself or his family.

The Declaration proclaims that the child is entitled to receive education which will be free and compulsory at least in the elementary stages, and which will promote his general culture and enable him to develop his abilities and his sense of moral and social responsibility and to become² a useful member of society. Parents, individuals, voluntary organizations, local authorities and governments are all called upon to recognize the rights and freedoms set forth and to³ strive for their observance by legislative and other measures.

G. Draft Declaration on the Right of Asylum:-

A Draft declaration on the right of asylum adopted by the commission on human rights has been before the Assembly since 1960. The Third Committee adopted the Preamble and Article I at the 1962 Assembly session. However, due to the Committee's crowded agenda, the draft was later allocated for consideration to the Assembly's legal (sixth) committee. During the 1965 session the legal committee established a

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1. The United Nations and Human Rights, p. 34.
 2. Ibid., p. 34.
 3. Everyman's United Nations, p. 315.

working group to prepare ^{an} ~~amended~~ text. The text submitted by this working group to the committee during the 1966 session was re-entitled "Draft Declaration on Territorial Asylum" and consisted of a Preamble and 4 Articles.¹

H. Declaration on the Granting of Independence to Colonial countries and peoples:-

In 1960, the General Assembly adopted 'The Declaration on the Granting of Independence, to colonial countries and peoples'. This declaration is closely connected with human rights. But in a resolution adopted in 1966, the General Assembly noted with deep regret that six years after the adoption of the declaration, many territories were still under colonial domination, and deplored the negative attitude of certain colonial powers which refused to recognize the right² of colonial peoples to self-determination and independence.

I. Elimination of Racial Discrimination:-

Since the inception of the United Nations, the problem of eliminating racial discrimination has preoccupied the General Assembly. The system of "Apartheid" prevailing in south Africa is the most blatant manifestation of discriminatory practices in the postwar world.

1. World Mark Encyclopedia of the Nations, p. 106.
2. The United Nations and Human Rights, p.39. Also see Year Book of the United Nations, 1960.

The policies and practices of 'Apartheid' represent the most flagrant and glaring violations, of human rights. Actually 'Apartheid' is a form of genocide as it is intended to destroy racial and ethnic groups of the indigenous population in South Africa.¹ On 12th September, 1952, thirteen delegates from Afro-Asian states requested the Secretary General to include in the agenda of the forthcoming session of the General Assembly, the item entitled "The question of race conflicts in South Africa resulting from the policies of Apartheid of the government of the Union of South Africa."

The matter had become so grave in 1960 that the Security Council had to be called into session. The Security Council passed a strongly-worded resolution calling upon the Union government to modify its policies in conformity with the purposes of the United Nations Charter. The Union government refused to abide by the United Nations resolution. The Union government termed the United Nations action as an intervention in her internal affairs prohibited by Article 2 (7) of the Charter.²

With the entry of so many newly independent African and Asian nations into the U.N., the Assembly's efforts to

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1. U.N. Monthly Chronicle (U.N. Office of public information, May, 1967), p. 59.
 2. Bains, J.S., "The Apartheid policies of the Union of South Africa and the United Nations Organization." The Indian Journal of Political Science (The Indian Political Science Association, October-December 1961), p. 353.

mount a frontal attack on the over-all problem of racial discrimination received a new impetus. As a consequence, the Assembly in 1962 adopted a resolution, sponsored by nine African states, requesting the commission on Human Rights to prepare a Draft Declaration and a Draft Convention on the Elimination of All forms of racial discrimination.¹

Three reasons are advanced for Apartheid, political, economical and biological.

The political reason is that Whites are afraid that they would lose their political control over the country if whites and blacks are treated alike. The economic reason for Apartheid is equally clear. The South African Whites enjoy one of the highest standards of living in the world. They are not prepared to give it up. The biological reason is equally clear. Many whites have developed strong antipathy towards sexual relationship between whites and Blacks.

Apart from these facts, there is the sentiment and the psychological reason, the superiority complex and the desire to rule.²

The United Nations Declaration on the Elimination of all forms of racial discrimination was proclaimed by the

1. World Mark Encyclopedia of the Nations, p.106.

2. Ibid.

General Assembly on 23rd November 1963. In this declaration, the Assembly affirmed that "discrimination between human beings on the grounds of race, colour or ethnic origin is an offense to human dignity, a denial of the principles of the Charter, a violation of the rights proclaimed in the Universal Declaration of Human Rights and an obstacle to friendly and peaceful relations among nations, capable of disturbing peace and security among peoples." The Declaration sets forth principles¹ for the elimination of discrimination.

The convention on the Elimination of All Forms of Racial Discrimination was adopted unanimously by the General Assembly in 1965, two years after the declaration. This convention incorporated the principles of the 1963 declaration. This convention was the most important and comprehensive international instrument in the field of human rights prior to the adoption by the Assembly of the two covenants on Human Rights² in December 1966.

This was the first completed U.N. Convention to include implementation measures. Comprehensive measures of implementation are provided for in the convention, including the establishment of a committee on the Elimination of Racial Discrimination and of ad hoc conciliation commissions. On January 4,

1. The United Nations and Human Rights, p. 42.

2. World Mark Encyclopedia of the Nations, p. 107.

1969, the International convention on the Elimination of all Forms of Racial Discrimination entered into force.

The convention contains a long list of rights and freedoms in the enjoyment of which racial discrimination shall¹ be prohibited and eliminated.

But inspite of the persistent efforts by the United Nations, the freedom loving and civilized world as well as the pleadings of humanitarian organizations, the South African Government is showing no signs of abrogating or even reasonably² amending her wicked apartheid policy.

At every stage of the deliberations, the representatives of the Union of South Africa have argued that since Article 2 (7) forbids intervention in the internal affairs of Member States, the United Nations has no right to have discussions and pass resolutions on South African policy of apartheid. The South African government and some of its supporters have consistently argued that the records of the San Francisco Conference make it clear that the matters pertaining to the domestic jurisdiction of a state are by their very nature outside the purview of the United Nations.

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1. The United Nations and Human Rights, p. 44.
 2. Evening News (Accra) 20th January 1968.

But this argument of the South African government is based on fallacious reasoning. The events in South Africa because of their nature and their origin have gone far beyond the point of being an internal affair. They are now a matter of grave concern for the whole world and for the United Nations.¹ Though the Assembly in dealing with this particular situation is able to proceed on the basis of a strong majority consensus, its action has been ineffective in altering south African policy.

J. Declaration on Youth:-

At its 1965 session, the General Assembly adopted a Declaration on the promotion among youth of the ideals of peace,² mutual respect and understanding between peoples.

K. Status of Women:-

The measures taken by the United Nations to advance the status of women have been inspired by the Charter, which sets forth, in its Preamble, the principle of "the dignity and worth of the human person" and of "equal rights of men and women." A commission on the status of women was established in 1946. Since its establishment the commission has

1. Bains, J.S., op.cit., p. 359.

2. World Mark Encyclopedia of the Nations, p. 107. Also see Year Book of the United Nations, 1965.

dealt with a wide range of questions related to women's political, economic, civil, social and educational rights. Among the commission's earliest achievements was the drafting of the Convention on the political right of women, adopted by the General Assembly in 1952, and the Convention on the nationality of married women adopted in 1956.¹

POLITICAL RIGHTS OF WOMEN:-

The General Assembly in 1946, recommended that all Member States which had not already done so, adopt measures necessary to x fulfil the aims of the Charter by granting to women the same political rights as to men.

The commission on the Status of Women, in 1950 requested the Secretary-General to prepare a draft convention on the granting to women of equal political rights with men. In 1951, the Commission considered the Secretary-General's draft and presented its own draft to the Economic and Social Council in August of that Year. The council in 1952, forwarded that draft to the General Assembly which, on 20th December 1952, adopted the convention on the political rights of women.² It provides that "women shall be entitled on equal terms with men without discrimination to vote in all elections; to hold

1. Ibid., p. 109.

2. The United Nations and Human Rights, p. 56.

public office and to exercise all public functions." Almost all the nations that became independent in recent years have, by means of clauses entrenched in their constitutions, granted to women equal political rights with men.¹ This convention is the first instrument of international law aimed at the granting and the protection of women's rights on a worldwide basis. The convention was opened for signature in March 1953 and entered into force on July 7, 1954.²

ECONOMIC RIGHTS OF WOMEN:-

The goal of the Commission on the Status of women, over the years, in the field of economic rights, is the removal of discrimination against women in the economic field and the achievement of equal rights of men and women in respect of employment and occupation. Collaboration between I.L.O. and the United Nations resulted in an I.L.O. convention and a Recommendation on Equal Remuneration for work of Equal value for men and women workers, which were adopted in 1951.³

EDUCATIONAL OPPORTUNITIES:-

The commission on the Status of Women has also been deeply concerned with the question of the access of women to

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1. Annual Review of United Nations Affairs, (New York, 1969).
 2. Everyman's United Nations, p. 365.
 3. Ibid., p. 322.

education. The provision of equal educational opportunities for men and women at all levels has been repeatedly urged by the Economic and Social Council. The Commission has always expressed interest in those programmes of UNESCO which are of special importance to women, such as the various projects aimed at increasing the access of girls and women to education, particularly in the developing countries. In cooperation with UNESCO and I.L.O., the commission on Human Rights has promoted the access of girls and women to education at all levels, to the teaching profession and technical and professional training.¹

NATIONALITY OF MARRIED WOMEN:-

Since its inception in 1946, the commission on the Status of Women has been concerned with the problem of the nationality of married women. The efforts of the Commission in this field resulted in the preparation of the convention on the Nationality of Married Women. This convention was adopted in 1957 as a result of factual situations of numerous instances of great suffering and hardship imposed on women married to men of a different nationality from her own. The convention seeks to avoid the automatic loss of nationality² by a woman on her marriage to an alien. She may keep her

1. Ibid., p. 323.

2. The United Nations and Human Rights, pp. 58-59.

nationality unless she desires to acquire her husbands nationality. However, the hardship and suffering caused by this conflict of laws continues to exist in some parts of the world and women married to aliens continue to be the victims. The Convention on the 'Nationality of Married Women', which was adopted in January 1957 by the General Assembly, opened for signature in February 1957 and came into force on August 11, 1958.¹

DECLARATION ON THE ELIMINATION OF DISCRIMINATION
AGAINST WOMEN:-

The work of the United Nations in helping to assure equal rights for women resulted in the adoption by the General Assembly in 1967 of the "Declaration on the Elimination of Discrimination against women."² On November 7, 1967 the General Assembly Unanimously adopted a draft declaration on the Elimination of Discrimination against women, which declares that such discrimination is fundamentally unjust and constitutes an offence against human dignity.³

From the very beginning, after the proclamation of the Universal Declaration of Human Rights in 1948, the United Nations has taken interest in adopting treaties and declarations on a number of specific rights; mentioned earlier. These treaties on conventions are in effect between the states which have become parties to them.

1. Everyman's United Nations, p.368.
2. The United Nations and Human Rights, p.70.
3. Annual Review of United Nations Affairs (New York, 1969) p.51.

C O N C L U S I O N

"Human Rights" is the twentieth century designation of what have been traditionally known as natural rights or in a more exhilarating phrase, the rights of man. The enjoyment of fundamental freedoms by men, women and children all over the world now engages the attention of the world community as never before.

During the first twenty years of the U.N., the drive for freedom tended to be defined as a drive for national independence. Now that freedom has been achieved and many new nations have emerged, we are still faced with the question, "What about freedom for individual, men, women and children; the individual human persons whose dignity and worth is reaffirmed on the opening page of the U.N. Charter?" The world today offers a very far from satisfactory answer to this question.

Human Rights are based on mankind's increasing demand for a decent, civilized life in which the inherent dignity of each human being should receive respect and protection. To deny human beings their rights is to set the stage for political and social unrest-hostility between groups within a nation, conflicts between nations and even a world war. Human rights, far from being an abstract subject for philosophers and lawyers, affect the daily lives of everyone-man, woman and child.

In the modern world, the U.N. is the organization best suited to perform functions of safeguarding these rights. When the founding fathers of the United Nations drew up the Organization's Charter at San Francisco in 1945, they established in the very first paragraph of the Preamble their fundamental objective : to save succeeding generations from the scourge of war. In the next paragraph of the Preamble they reaffirmed faith in fundamental human rights and in the dignity and worth of the human person.

These opening words of the United Nations Charter not only establish the priorities of purpose and of effort to which the peoples of the United Nations stand pledged; they also reflect the indissoluble link between respect for human rights and human survival itself.

The United Nations Charter had made seven definite references to the matter of human rights.

At its first session in February 1946, the Economic and Social Council established a commission on Human Rights. This Commission devoted itself mainly to preparing an international bill of rights. In the beginning there was much discussion of the form which the bill of rights should take. Some thought that a declaration of principle was most appropriate, while others favoured a convention. It was finally

decided that the international bill of rights should be in three parts : a "Declaration", a "Covenant or Covenants"; and "measures of implementation."

There are thirty articles in the Declaration. The Declaration itself states that it is a common standard of achievement for all peoples and all nations, and not a binding set of rules. Broadly speaking, two kinds of rights are recognized in the Universal Declaration. First, there is the traditional kind, civil and political rights, which gradually evolved over centuries during the long development of democratic society. Then there are Economic, Social and Cultural rights, which started to be recognized more recently when people realized that possession of certain political and civil rights would be valueless without the simultaneous enjoyment of certain rights of an Economic, Social and Cultural Character. Eighteen years later, the Declaration was given legal form in two covenants on Human Rights, which will be binding on states that have become parties to them and will come into force upon ratification by 35 states.

On measures of implementation, the commission on Human Rights decides that, for civil and political rights, a human rights committee should be established which would receive complaints by a state party that another state party was not giving effect to a particular provision of the covenant. This committee would act primarily as a fact-finding body, making

available its good offices to the states concerned with a view to reaching a friendly solution of the matter. If such a solution is not reached, either state may bring the case before the International Court of Justice.

For the implementation of the covenant on Economic, Social and Cultural rights, it was decided to establish a system of periodic reports to be submitted to the Economic and Social Council by State parties on the progress they had made in achieving the observance of the rights recognized in the covenant.

After the proclamation of the Universal Declaration of Human Rights in 1948, the United Nations immediately set out to adopt treaties on a number of specific rights. These deal with genocide, racial discrimination, refugees, stateless persons, the rights of women, slavery and a freedom of information. These conventions are in effect between the states which have become parties to it.

The United Nations activities to expand human rights go beyond the preparation of legal instruments. The organization convenes conferences and Seminars in various parts of the world, at which government officials and representatives of local organizations exchange information.

In 1968, the International year for Human Rights, commemorating the twentieth anniversary of the adoption of

the Universal Declaration of Human Rights, the first world-wide conference on human rights, held by the U.N. took place in Teheran. Despite the violations of human rights including gross like Apartheid, racism, in colonialism, the observance of the International year for human rights stimulated both national and international efforts in the field of human rights.

At the recent sessions of the commission on Human Rights, a study of the question of the realization of economic and social rights with particular reference to the special problems of developing countries was initiated. The practice of investigation of the situations which reveal a consistent pattern of violations of human rights is being expanded. In addition to the investigation of gross and flagrant violations of human rights in South Africa, the Ad-Hoc group of experts, established by the Commission on Human Rights, is entrusted with the task of investigating allegations concerning Israel's violations of the Geneva Convention on the protection of Civilian persons in time of war, in the Arab territories occupied in 1967.

The Commission on the status of women recently discussed among other things the question of the protection of women and children during the wartime. On January 4, 1968, the International Convention on the Elimination of All Forms of Racial Discrimination entered into force and thereby a

concrete contribution to the solution of one of the most vital problems of our time was made.

Addressing the Teheran Conference on Human Rights, the former Secretary General U Thant said : "The ultimate objective of U.N. efforts must obviously be the implementation of the standards of the levels where they can be enjoyed and exercised by the people concerned."

In spite of all these efforts made by the United Nations in the field of human rights, the violations of human rights are writ large almost all over the globe. An example of the most flagrant and glaring violation of human rights is the practice of "Apartheid." Apartheid is the official name given by the Government of South Africa to its racial policies. The United Nations has repeatedly expressed grave concern at what the General Assembly has described as "the aggravation of the explosive situation in the Republic of South Africa as a result of the continued implementation of the policies of 'Apartheid' by the government of South Africa."

The former Secretary-General of the United Nations, U Thant, stated in the introduction to his 1968 Annual Report to the General Assembly that the situation arising from the unresolved policies of "Apartheid" had become more serious than ever. The Government of South Africa "has not only continued to enforce its policies with more determination in

South Africa but has also been attempting to consolidate and extend the influence of its racial philosophy in neighbouring territories, notably Namibia and Southern Rhodesia."

The basis aim of the policies of "Apartheid" was formulated by the former Prime Minister of South Africa, Dr.H.F. Verwoerd, in a speech in Parliament on 26 January 1963. He stated:

"Reduced to its simplest form the problem is nothing else than this : We want to keep, South Africa White..... 'Keeping it white' can only mean one thing, namely, white domination, not 'leadership', not 'guidance', but 'control', 'supremacy'. If we are agreed that it is the desire of the people that the White man should be able to continue to protect himself by retaining white domination we say that it can be achieved by separate development."

The moral isolation of the South African Government is reflected in the condemnation of its racial policies by the overwhelming majority of Member States of the United Nations and its specialized agencies and by numerous non-governmental organizations representing great segments of humanity. The Secretary-General summed up the attitude of the United Nations towards the policies of apartheid in a message issued on 21 March 1967:

".....The United Nations family firmly believes that racial discrimination and Apartheid are a denial of human rights, of fundamental freedoms, and of justice, and that they are an affront to human dignity. We feel that racial discrimination and apartheid, wherever they are practiced, constitute a serious impediment to economic and social development and are obstacles to international co-operation and peace."

Up to now, the South African Government has resisted the United Nations pressure, claiming that its policies benefit both blacks and whites in South Africa and that, in any case, the matter is a domestic one in which the United Nations should not intervene.

The most recent and unmistakable violation of human rights took place in East Pakistan, which has now been recognised as the People's Republic of Bangla Desh. Sheikh Mujibur Rahman said on January 10, "there was not a single person out of the 75 million people in Bangla Desh who had not suffered in one way or the other at the hands of the occupation forces." The Sheikh said that "atrocities committed by the Pakistani¹ army and its collaborators was unparalleled in history."

1. The Hindustan Times (New Delhi) January 11.

The Sheikh told the crowd in Dacca that, nowhere had he seen "such cowardly barbarism as that unleashed by Yahya Khan in Bangla Desh." The Sheikh said ".....We asked for our right to live and we were given bullets, our men, women and children were slaughtered very few countries have paid such a heavy price nearly 10 Lakh people have been killed and a crore were forced to leave their homes to seek shelter in India."

The Banga Bandhu also demanded an inquiry by an international tribunal into the atrocities committed by the Pakistani forces in Bangla Desh so that the whole world could know the real facts. Bangla Desh intellectuals have launched a mass signature campaign demanding demanding the trial of Lt.-General, A.A.K.Niazi and Maj.-General Rao Farman Ali of the Pakistan Army, as war criminals for committing genocide¹ and inhuman atrocities.

The U.N. is not the only international body which is interested in the protection of Human Rights. Another body, the Council of Europe has already achieved something more, it has even brought into being some of those instruments for enforcement which the U.N. has contemplated.

1. The Hindustan Times (New Delhi) January 16.

U Thant has said that "in a very real sense, the promotion and protection of human rights form the very essence, and provide the deepest meaning and motivation, of the United Nations as an international and inter-governmental Organization. For, in the last analysis, a recognition of the 'dignity and worth of the human person', in the words of the Charter, is a symbol of all the other activities and purposes entrusted to and pursued by the world organization : peace, the security of future generations from the scourge of war and the promotion of social progress and better standards of life in larger freedom. The establishment of human rights provide the foundation upon which rests the political structure of human freedom; the achievement of human freedom generates the will as well as the capacity for economic and social progress; the attainment of economic and social progress provides the basis for true peace."

Almost every activity of the United Nations is involved in one way or another with human rights, for the simple reason that almost all of our daily activity is related somehow to the exercise of human rights. But a great deal of work concerning human rights and fundamental freedoms is yet to be done. This stupendous task is not that of the United Nations alone. The promotion and protection of human rights must be viewed as a national,infact,as an international one.Both national and

international action in many forms is necessary in order to realize and preserve these rights throughout the world. And above all, we must ourselves practise tolerance and respect the rights and freedoms of others.

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